

## APPENDIX A

# Hazardous Waste Laws and Regulations

## Federal Requirements For HHW Management Programs

EPA has issued regulations governing hazardous waste under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). This Appendix generally summarizes the regulations that may be applicable to HHW collection programs managing various types of hazardous wastes. It is important for organizers to consult appropriate EPA regional and state personnel to get a better understanding of how these regulations apply to HHW collection programs.

In addition, state laws may be more stringent than the federal regulations described below. Therefore, it also is important that HHW collection organizers familiarize themselves with and follow state hazardous waste requirements. Consult your state solid and hazardous waste agency (see Appendix B) for further information.

### *The Resource Conservation and Recovery Act (RCRA)*

RCRA is the federal law requiring safeguards and encouraging environmentally sound methods for disposal of household, municipal, commercial, and

industrial waste. Hazardous waste is regulated under RCRA's Subtitle C program. Subtitle C establishes a system for controlling hazardous waste from "cradle to grave"—from the moment it is generated until its ultimate disposal. These controls include:

- **A tracking system** that requires a manifest document to accompany transported hazardous waste from the point of generation to the point of final disposal.
- **An identification and permitting system** that enables EPA and the states to ensure the safe operation of all facilities involved in the treatment, storage, and disposal of hazardous waste. Certain generators, transporters, and treatment, storage, and disposal facilities (TSDFs) must obtain an EPA identification number. TSDFs also must obtain a permit to operate, which ensures that they meet the standards established under the RCRA program for proper waste management.
- **A system of restrictions and controls** on the placement of hazardous waste on or into the land.

RCRA requirements for hazardous waste management vary depending on whether the waste is HHW, conditionally exempt small quantity generator (CESQG) waste, or small quantity generator (SQG) waste. These requirements are described below.

### *Household hazardous waste*

Household waste, including HHW, is exempt from federal hazardous waste regulations and liability under RCRA Subtitle C. Therefore, HHW is not regulated under RCRA as a hazardous waste (see 40 CFR 261.4(b)(1)). Programs that collect HHW do not need a Subtitle C

permit or EPA identification number, and HHW can be transported without following hazardous waste transportation regulations (e.g., people can bring HHW to a collection facility in their cars). No quantity of HHW or length of time of accumulation triggers the Subtitle C requirements.

To be defined as “household” waste and thus be exempt from federal hazardous waste regulations, the waste must be:

- Generated by individuals on the premises of a residence for individuals (a household).
- and
- Composed primarily of materials found in the wastes generated by consumers in their homes.

Even if waste generated by a commercial or industrial establishment *looks* like household waste, it is not exempt from federal hazardous waste regulations.

The household waste exemption applies to HHW through its entire management cycle. The waste collected through a HHW collection program does not lose its exemption by being consolidated with other household waste. In summary, if a program accepts only waste from households, there are no applicable federal hazardous waste regulations.

#### ***Conditionally exempt small quantity generator (CESQG) waste***

Some communities decide to run programs that collect CESQG waste as well as HHW. Communities generally make this decision to help small businesses keep hazardous waste out of the municipal waste stream. Hazardous waste generators are conditionally exempt from the federal hazardous waste regulations if they generate less than 100 kilograms (approximately 220 pounds or about half of a 55-gallon drum) of hazardous waste per month. Like HHW, CESQG waste is exempt from most of the

federal hazardous waste requirements. No Subtitle C permit or EPA identification number is needed, and CESQG waste can be transported without following the federal hazardous waste transportation requirements.

In general, CESQGs must comply with two requirements. They do not store more than 1,000 kilograms (about 2,200 pounds) of hazardous waste at their facility at one time, and they send their hazardous waste to a recycling facility, a hazardous waste facility, or a facility permitted, licensed, or registered by the state to manage municipal or industrial solid waste (usually, a municipal landfill). These CESQGs may send their hazardous waste to HHW collection programs that are state-permitted, licensed, or registered to manage municipal or industrial solid waste. Because CESQG waste is conditionally exempt throughout its management cycle, collection programs managing CESQG waste are not covered by the federal hazardous waste regulations, but are subject to requirements imposed by states through their municipal or industrial waste permit, license, or registration programs.

EPA encourages the collection and proper management of CESQG waste. Community collection programs can help meet this goal by accepting CESQG waste from schools, small businesses, farms, government agencies, and other commercial and institutional hazardous waste generators.

CESQGs are responsible for ensuring that their waste is managed in compliance with federal requirements. They may ask the collection program for documentation of registration or licensing if required by the state. CESQGs can refer to EPA’s *Understanding the Small Quantity Generator Hazardous Waste Rules: A Handbook for Small Business* for more information about the requirements that apply to them. Contact your

regional EPA office for this publication or for more information.

## ***EPA recommendations for programs that collect HHW and CESQG waste***

Although HHW and CESQG waste are exempt from most federal hazardous waste regulations, EPA recommends that sponsors of HHW collection programs manage the collected waste as a Subtitle C hazardous waste—that is, it should be managed at a recycling or licensed hazardous waste facility. Given the effort and expense a community has already put into its HHW collection program, it makes sense to ensure the greater level of environmental protection that will result from the Subtitle C controls.

EPA also recommends that HHW collection programs use licensed hazardous waste transporters who will properly identify, label, manifest, and transport the collected wastes for recycling, treatment, or disposal. State hazardous waste agencies (see Appendix B) can provide a list of licensed facilities and transporters.

## ***Small quantity generator (SQG) waste***

SQGs are those that generate more than 100 kilograms (220 pounds) and less than 1,000 kilograms (2,200 pounds) of hazardous waste per month. SQGs must use specified packaging for their waste; use a fully completed manifest form when shipping the waste off site; use only hazardous waste transporters; and send their waste to authorized hazardous waste management facilities with EPA identification numbers to transport, treat, store, or dispose of their hazardous waste.

HHW collection programs may not accept SQG wastes unless the program has a RCRA Subtitle C permit (or is a transporter who stores manifested shipments of hazardous waste at a transfer facility for a period

of 10 days or less). Therefore, sponsors should be careful to limit participation in their programs to households and CESQGs to avoid the need to obtain a RCRA permit. To ensure that a hazardous waste generator is a CESQG and not a regulated SQG, program sponsors should establish procedures to differentiate between the two types of generators. Some programs exclude SQG waste by requiring pre-registration by CESQGs. At the time of pre-registration, program personnel can inquire about the types and quantities of waste that the generator wishes to bring to the collection.

## **The Comprehensive Environmental Response, Compensation, And Liability Act (CERCLA/Superfund)**

Congress passed CERCLA in 1980 to address the cleanup of inactive and abandoned hazardous waste sites. Under CERCLA, if cleanup of a hazardous waste disposal site is necessary, all sources of the waste, as well as the owner or operator of the site, might be potentially responsible parties (PRPs), who are liable for the entire cleanup cost for the site.

CERCLA does not exclude HHW from liability, nor does it allow any exemption based on the amount of waste generated. If HHW contains a substance defined as hazardous under CERCLA, potential liability exists. The Agency, however, will generally not notify generators or transporters of municipal solid waste—including HHW collection programs—that they are considered PRPs, *unless* EPA has information indicating that the waste came from an industrial, institutional, or commercial process or activity. This includes, but is not limited to, SQG

waste from commercial or industrial processes or activities, and used or spent solvents from private or municipally owned maintenance shops. EPA makes decisions about notifying PRPs on a case-by-case basis, and may, in exceptional situations, notify parties who generated or transported only household waste to a site. PRPs may sue other parties that they believe share liability. Citizen suits are unrestricted.

While CERCLA does not exempt HHW collection programs from liability, it is important to realize that the potential for liability might be greater if a community takes no action to ensure proper disposal of HHW. The additional safeguards provided by HHW collection and Subtitle C management can reduce the likelihood of environmental and human health impacts, and thereby might reduce potential CERCLA liability.

For more information about federal laws pertaining to HHW, you can call the RCRA/Superfund Hotline at 800-424-9346. In Washington, DC, please call 703-412-9810. The Hotline is open Monday through Friday, 8:30 a.m. to 7:30 p.m. EST. For the hearing impaired, the TDD number is

800-553-7672. Alternatively, you can contact your EPA regional office (see Appendix B).

## State and Local Requirements

Some states have regulations or guidelines for HHW management programs or permanent HHW management facilities that are more stringent than the federal requirements. These may include requirements for a permit, permit variances, or a plan for the collection day.

Some states do not have an exemption for CESQGs; others might use a lower cut-off than 100 kilograms per month or have different management requirements. States also might have CERCLA-type legislation allowing recovery of the costs of hazardous waste site cleanup. Organizers of HHW management programs must check with their state environmental officials (see Appendix B) to learn about applicable regulations. In addition, local zoning, building, and fire codes might apply to HHW collections; the appropriate local agencies must be contacted to ensure compliance.